



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:
SE48- 2824
MassDEP File #

eDEP Transaction #
Nantucket
City/Town

A. General Information

1. From: Nantucket
Conservation Commission

2. This issuance is for (check one):
a. ☒ Order of Conditions b. ☐ Amended Order of Conditions

3. To: Applicant:

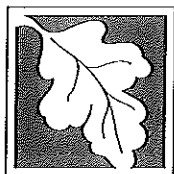
a. First Name Siasconset Beach Preservation Fund b. Last Name _____
c. Organization _____
d. Mailing Address Po Box 2279
e. City/Town Nantucket f. State MA g. Zip Code 02584

4. Property Owner (if different from applicant):

a. First Name _____ b. Last Name _____
c. Organization See attached Property Owners(Town of Nantucket & property owners 87-105 Baxter Rd)
d. Mailing Address _____
e. City/Town _____ f. State _____ g. Zip Code _____

5. Project Location:

a. Street Address 87-105 Baxter Road b. City/Town Nantucket
c. Assessors Map/Plat Number 48 & 49 d. Parcel/Lot Number 48-8, 48-21, 48-22, 48-19, 48-18, 48-17, 48-15, 49-8.
Latitude and Longitude, if known: 41°16'36.748"N 69°57'40.559"W
d. Latitude e. Longitude



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A. General Information (cont.)

6. Property recorded at the Registry of Deeds for (attach additional information if more than one parcel):
Nantucket
a. County
1702
b. Certificate Number (if registered land)
c. Book
d. Page
7. Dates: 08/14/15 09/30/2015 09/30/2015
a. Date Notice of Intent Filed b. Date Public Hearing Closed c. Date of Issuance
8. Final Approved Plans and Other Documents (attach additional plan or document references as needed):
Plan view of slope stabilization/ Typical geotube section and drainage improvement plan and profile
a. Plan Title
Ocean & Coastal Consultants
b. Prepared By
03/12/2013 & 08/13/15
c. Signed and Stamped by
Joseph R. Marrone Structural
1" =40' & 1/8"=1'
d. Final Revision Date
e. Scale
f. Additional Plan or Document Title
g. Date

B. Findings

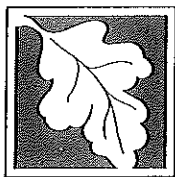
1. Findings pursuant to the Massachusetts Wetlands Protection Act:

Following the review of the above-referenced Notice of Intent and based on the information provided in this application and presented at the public hearing, this Commission finds that the areas in which work is proposed is significant to the following interests of the Wetlands Protection Act (the Act). Check all that apply:

- a. ☐ Public Water Supply b. ☒ Land Containing Shellfish c. ☒ Prevention of Pollution
d. ☐ Private Water Supply e. ☒ Fisheries f. ☒ Protection of Wildlife Habitat
g. ☒ Groundwater Supply h. ☒ Storm Damage Prevention i. ☒ Flood Control
j. ☒ Wetland Scenic Views (bylaw) k. ☒ Recreation (Bylaw)
2. This Commission hereby finds the project, as proposed, is: (check one of the following boxes)

Approved subject to:

- a. ☒ the following conditions which are necessary in accordance with the performance standards set forth in the wetlands regulations. This Commission orders that all work shall be performed in accordance with the Notice of Intent referenced above, the following General Conditions, and any other special conditions attached to this Order. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, these conditions shall control.



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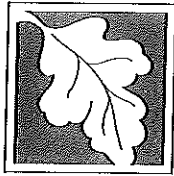
B. Findings (cont.)

Denied because:

- b. ☐ the proposed work cannot be conditioned to meet the performance standards set forth in the wetland regulations. Therefore, work on this project may not go forward unless and until a new Notice of Intent is submitted which provides measures which are adequate to protect the interests of the Act, and a final Order of Conditions is issued. **A description of the performance standards which the proposed work cannot meet is attached to this Order.**
- c. ☐ the information submitted by the applicant is not sufficient to describe the site, the work, or the effect of the work on the interests identified in the Wetlands Protection Act. Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides sufficient information and includes measures which are adequate to protect the Act's interests, and a final Order of Conditions is issued. **A description of the specific information which is lacking and why it is necessary is attached to this Order as per 310 CMR 10.05(6)(c).**
3. ☐ Buffer Zone Impacts: Shortest distance between limit of project disturbance and the wetland resource area specified in 310 CMR 10.02(1)(a) a. linear feet

Inland Resource Area Impacts: Check all that apply below. (For Approvals Only)

| Resource Area | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|--|--|--|--|--|
| 4. <input type="checkbox"/> Bank | <u> </u> a. linear feet | <u> </u> b. linear feet | <u> </u> c. linear feet | <u> </u> d. linear feet |
| 5. <input type="checkbox"/> Bordering Vegetated Wetland | <u> </u> a. square feet | <u> </u> b. square feet | <u> </u> c. square feet | <u> </u> d. square feet |
| 6. <input type="checkbox"/> Land Under Waterbodies and Waterways | <u> </u> a. square feet <u> </u> e. c/y dredged | <u> </u> b. square feet <u> </u> f. c/y dredged | <u> </u> c. square feet | <u> </u> d. square feet |
| 7. <input type="checkbox"/> Bordering Land Subject to Flooding | <u> </u> a. square feet | <u> </u> b. square feet | <u> </u> c. square feet | <u> </u> d. square feet |
| Cubic Feet Flood Storage | <u> </u> e. cubic feet | <u> </u> f. cubic feet | <u> </u> g. cubic feet | <u> </u> h. cubic feet |
| 8. <input type="checkbox"/> Isolated Land Subject to Flooding | <u> </u> a. square feet | <u> </u> b. square feet | | |
| Cubic Feet Flood Storage | <u> </u> c. cubic feet | <u> </u> d. cubic feet | <u> </u> e. cubic feet | <u> </u> f. cubic feet |
| 9. <input type="checkbox"/> Riverfront Area | <u> </u> a. total sq. feet | <u> </u> b. total sq. feet | | |
| Sq ft within 100 ft | <u> </u> c. square feet | <u> </u> d. square feet | <u> </u> e. square feet | <u> </u> f. square feet |
| Sq ft between 100-200 ft | <u> </u> g. square feet | <u> </u> h. square feet | <u> </u> i. square feet | <u> </u> j. square feet |



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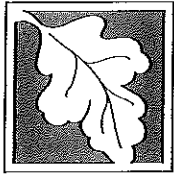
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B. Findings (cont.)

Coastal Resource Area Impacts: Check all that apply below. (For Approvals Only)

| | Proposed Alteration | Permitted Alteration | Proposed Replacement | Permitted Replacement |
|---|---|---|--|--|
| 10. <input type="checkbox"/> Designated Port Areas | Indicate size under Land Under the Ocean, below | | | |
| 11. <input type="checkbox"/> Land Under the Ocean | <u> </u> a. square feet | <u> </u> b. square feet | | |
| | <u> </u> c. c/y dredged | <u> </u> d. c/y dredged | | |
| 12. <input type="checkbox"/> Barrier Beaches | Indicate size under Coastal Beaches and/or Coastal Dunes below | | | |
| 13. <input checked="" type="checkbox"/> Coastal Beaches | <small>37,000 (perm)/35,000 (temp)</small> <u> </u> a. square feet | <u> </u> b. square feet | <small>~21,000 cy annual mitigation</small> <u> </u> c. nourishment | <u> </u> cu yd d. nourishment |
| 14. <input type="checkbox"/> Coastal Dunes | <u> </u> a. square feet | <u> </u> b. square feet | <u> </u> cu yd c. nourishment | <u> </u> cu yd d. nourishment |
| 15. <input checked="" type="checkbox"/> Coastal Banks | <small>950</small> <u> </u> a. linear feet | <u> </u> b. linear feet | | |
| 16. <input type="checkbox"/> Rocky Intertidal Shores | <u> </u> a. square feet | <u> </u> b. square feet | | |
| 17. <input type="checkbox"/> Salt Marshes | <u> </u> a. square feet | <u> </u> b. square feet | <u> </u> c. square feet | <u> </u> d. square feet |
| 18. <input type="checkbox"/> Land Under Salt Ponds | <u> </u> a. square feet | <u> </u> b. square feet | | |
| | <u> </u> c. c/y dredged | <u> </u> d. c/y dredged | | |
| 19. <input type="checkbox"/> Land Containing Shellfish | <u> </u> a. square feet | <u> </u> b. square feet | <u> </u> c. square feet | <u> </u> d. square feet |
| 20. <input type="checkbox"/> Fish Runs | Indicate size under Coastal Banks, Inland Bank, Land Under the Ocean, and/or inland Land Under Waterbodies and Waterways, above | | | |
| | <u> </u> a. c/y dredged | <u> </u> b. c/y dredged | | |
| 21. <input checked="" type="checkbox"/> Land Subject to Coastal Storm Flowage | <small>37,000 (perm)/35,000 (temp)</small> <u> </u> a. square feet | <u> </u> b. square feet | | |



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B. Findings (cont.)

22. ☐ Restoration/Enhancement *:

a. square feet of BWV

b. square feet of salt marsh

23. ☐ Stream Crossing(s):

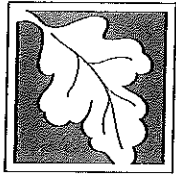
a. number of new stream crossings

b. number of replacement stream crossings

C. General Conditions Under Massachusetts Wetlands Protection Act

The following conditions are only applicable to Approved projects.

1. Failure to comply with all conditions stated herein, and with all related statutes and other regulatory measures, shall be deemed cause to revoke or modify this Order.
2. The Order does not grant any property rights or any exclusive privileges; it does not authorize any injury to private property or invasion of private rights.
3. This Order does not relieve the permittee or any other person of the necessity of complying with all other applicable federal, state, or local statutes, ordinances, bylaws, or regulations.
4. The work authorized hereunder shall be completed within three years from the date of this Order unless either of the following apply:
 - a. the work is a maintenance dredging project as provided for in the Act; or
 - b. the time for completion has been extended to a specified date more than three years, but less than five years, from the date of issuance. If this Order is intended to be valid for more than three years, the extension date and the special circumstances warranting the extended time period are set forth as a special condition in this Order.
5. This Order may be extended by the issuing authority for one or more periods of up to three years each upon application to the issuing authority at least 30 days prior to the expiration date of the Order.
6. If this Order constitutes an Amended Order of Conditions, this Amended Order of Conditions does not extend the issuance date of the original Final Order of Conditions and the Order will expire on **09/30/18** unless extended in writing by the Department.
7. Any fill used in connection with this project shall be clean fill. Any fill shall contain no trash, refuse, rubbish, or debris, including but not limited to lumber, bricks, plaster, wire, lath, paper, cardboard, pipe, tires, ashes, refrigerators, motor vehicles, or parts of any of the foregoing.
8. This Order is not final until all administrative appeal periods from this Order have elapsed, or if such an appeal has been taken, until all proceedings before the Department have been completed.



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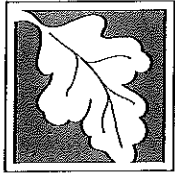
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

9. No work shall be undertaken until the Order has become final and then has been recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land upon which the proposed work is to be done. In the case of the registered land, the Final Order shall also be noted on the Land Court Certificate of Title of the owner of the land upon which the proposed work is done. The recording information shall be submitted to the Conservation Commission on the form at the end of this Order, which form must be stamped by the Registry of Deeds, prior to the commencement of work.
10. A sign shall be displayed at the site not less than two square feet or more than three square feet in size bearing the words,

"Massachusetts Department of Environmental Protection" [or, "MassDEP"]
"File Number SE48- 2824 "
11. Where the Department of Environmental Protection is requested to issue a Superseding Order, the Conservation Commission shall be a party to all agency proceedings and hearings before MassDEP.
12. Upon completion of the work described herein, the applicant shall submit a Request for Certificate of Compliance (WPA Form 8A) to the Conservation Commission.
13. The work shall conform to the plans and special conditions referenced in this order.
14. Any change to the plans identified in Condition #13 above shall require the applicant to inquire of the Conservation Commission in writing whether the change is significant enough to require the filing of a new Notice of Intent.
15. The Agent or members of the Conservation Commission and the Department of Environmental Protection shall have the right to enter and inspect the area subject to this Order at reasonable hours to evaluate compliance with the conditions stated in this Order, and may require the submittal of any data deemed necessary by the Conservation Commission or Department for that evaluation.
16. This Order of Conditions shall apply to any successor in interest or successor in control of the property subject to this Order and to any contractor or other person performing work conditioned by this Order.
17. Prior to the start of work, and if the project involves work adjacent to a Bordering Vegetated Wetland, the boundary of the wetland in the vicinity of the proposed work area shall be marked by wooden stakes or flagging. Once in place, the wetland boundary markers shall be maintained until a Certificate of Compliance has been issued by the Conservation Commission.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

18. All sedimentation barriers shall be maintained in good repair until all disturbed areas have been fully stabilized with vegetation or other means. At no time shall sediments be deposited in a wetland or water body. During construction, the applicant or his/her designee shall inspect the erosion controls on a daily basis and shall remove accumulated sediments as needed. The applicant shall immediately control any erosion problems that occur at the site and shall also immediately notify the Conservation Commission, which reserves the right to require additional erosion and/or damage prevention controls it may deem necessary. Sedimentation barriers shall serve as the limit of work unless another limit of work line has been approved by this Order.

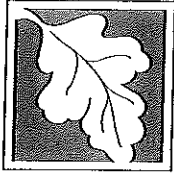
NOTICE OF STORMWATER CONTROL AND MAINTENANCE REQUIREMENTS

19. The work associated with this Order (the "Project") is (1) ☐ is not (2) ☒ subject to the Massachusetts Stormwater Standards. If the work is subject to the Stormwater Standards, then the project is subject to the following conditions:

a) All work, including site preparation, land disturbance, construction and redevelopment, shall be implemented in accordance with the construction period pollution prevention and erosion and sedimentation control plan and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Construction General Permit as required by Stormwater Condition 8. Construction period erosion, sedimentation and pollution control measures and best management practices (BMPs) shall remain in place until the site is fully stabilized.

b) No stormwater runoff may be discharged to the post-construction stormwater BMPs unless and until a Registered Professional Engineer provides a Certification that:

- i. all construction period BMPs have been removed or will be removed by a date certain specified in the Certification. For any construction period BMPs intended to be converted to post construction operation for stormwater attenuation, recharge, and/or treatment, the conversion is allowed by the MassDEP Stormwater Handbook BMP specifications and that the BMP has been properly cleaned or prepared for post construction operation, including removal of all construction period sediment trapped in inlet and outlet control structures;
- ii. as-built final construction BMP plans are included, signed and stamped by a Registered Professional Engineer, certifying the site is fully stabilized;
- iii. any illicit discharges to the stormwater management system have been removed, as per the requirements of Stormwater Standard 10;
- iv. all post-construction stormwater BMPs are installed in accordance with the plans (including all planting plans) approved by the issuing authority, and have been inspected to ensure that they are not damaged and that they are in proper working condition;
- v. any vegetation associated with post-construction BMPs is suitably established to withstand erosion.



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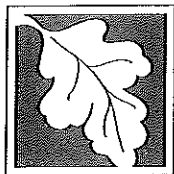
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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

- c) The landowner is responsible for BMP maintenance until the issuing authority is notified that another party has legally assumed responsibility for BMP maintenance. Prior to requesting a Certificate of Compliance, or Partial Certificate of Compliance, the responsible party (defined in General Condition 18(e)) shall execute and submit to the issuing authority an Operation and Maintenance Compliance Statement ("O&M Statement") for the Stormwater BMPs identifying the party responsible for implementing the stormwater BMP Operation and Maintenance Plan ("O&M Plan") and certifying the following: *i.*) the O&M Plan is complete and will be implemented upon receipt of the Certificate of Compliance, and *ii.*) the future responsible parties shall be notified in writing of their ongoing legal responsibility to operate and maintain the stormwater management BMPs and implement the Stormwater Pollution Prevention Plan.
- d) Post-construction pollution prevention and source control shall be implemented in accordance with the long-term pollution prevention plan section of the approved Stormwater Report and, if applicable, the Stormwater Pollution Prevention Plan required by the National Pollution Discharge Elimination System Multi-Sector General Permit.
- e) Unless and until another party accepts responsibility, the landowner, or owner of any drainage easement, assumes responsibility for maintaining each BMP. To overcome this presumption, the landowner of the property must submit to the issuing authority a legally binding agreement of record, acceptable to the issuing authority, evidencing that another entity has accepted responsibility for maintaining the BMP, and that the proposed responsible party shall be treated as a permittee for purposes of implementing the requirements of Conditions 18(f) through 18(k) with respect to that BMP. Any failure of the proposed responsible party to implement the requirements of Conditions 18(f) through 18(k) with respect to that BMP shall be a violation of the Order of Conditions or Certificate of Compliance. In the case of stormwater BMPs that are serving more than one lot, the legally binding agreement shall also identify the lots that will be serviced by the stormwater BMPs. A plan and easement deed that grants the responsible party access to perform the required operation and maintenance must be submitted along with the legally binding agreement.
- f) The responsible party shall operate and maintain all stormwater BMPs in accordance with the design plans, the O&M Plan, and the requirements of the Massachusetts Stormwater Handbook.



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C. General Conditions Under Massachusetts Wetlands Protection Act (cont.)

g) The responsible party shall:

1. Maintain an operation and maintenance log for the last three (3) consecutive calendar years of inspections, repairs, maintenance and/or replacement of the stormwater management system or any part thereof, and disposal (for disposal the log shall indicate the type of material and the disposal location);
2. Make the maintenance log available to MassDEP and the Conservation Commission ("Commission") upon request; and
3. Allow members and agents of the MassDEP and the Commission to enter and inspect the site to evaluate and ensure that the responsible party is in compliance with the requirements for each BMP established in the O&M Plan approved by the issuing authority.

h) All sediment or other contaminants removed from stormwater BMPs shall be disposed of in accordance with all applicable federal, state, and local laws and regulations.

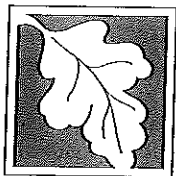
i) Illicit discharges to the stormwater management system as defined in 310 CMR 10.04 are prohibited.

j) The stormwater management system approved in the Order of Conditions shall not be changed without the prior written approval of the issuing authority.

k) Areas designated as qualifying pervious areas for the purpose of the Low Impact Site Design Credit (as defined in the MassDEP Stormwater Handbook, Volume 3, Chapter 1, Low Impact Development Site Design Credits) shall not be altered without the prior written approval of the issuing authority.

l) Access for maintenance, repair, and/or replacement of BMPs shall not be withheld. Any fencing constructed around stormwater BMPs shall include access gates and shall be at least six inches above grade to allow for wildlife passage.

Special Conditions (if you need more space for additional conditions, please attach a text document):



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D. Findings Under Municipal Wetlands Bylaw or Ordinance

1. Is a municipal wetlands bylaw or ordinance applicable? ☒ Yes ☐ No
2. The Nantucket hereby finds (check one that applies):
Conservation Commission

- a. ☐ that the proposed work cannot be conditioned to meet the standards set forth in a municipal ordinance or bylaw, specifically:

1. Municipal Ordinance or Bylaw

2. Citation

Therefore, work on this project may not go forward unless and until a revised Notice of Intent is submitted which provides measures which are adequate to meet these standards, and a final Order of Conditions is issued.

- b. ☐ that the following additional conditions are necessary to comply with a municipal ordinance or bylaw:

1. Municipal Ordinance or Bylaw

2. Citation

3. The Commission orders that all work shall be performed in accordance with the following conditions and with the Notice of Intent referenced above. To the extent that the following conditions modify or differ from the plans, specifications, or other proposals submitted with the Notice of Intent, the conditions shall control.

The special conditions relating to municipal ordinance or bylaw are as follows (if you need more space for additional conditions, attach a text document):

Please view additional findings and conditions page(s)



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Provided by DEP

B1. Additional Conditions

The Town of Nantucket Conservation Commission has found it necessary to include these additional conditions as a standard part of every Order. If the condition applies, then the corresponding box will be checked:

- ☒ 1. Pursuant to General Condition Number 8, this Order of Conditions must be registered with the Registry of Deeds for Nantucket, and proof of recording shall be submitted to the Commission prior to the commencement of any work approved in this Order.
- ☒ 2. No work approved under this Order shall take place until all administrative appeal periods from the Order have elapsed, or, if an appeal has been filed, until all proceedings have been completed.
- ☒ 3. The landowner, applicant, and/or the contractor will notify the Commission in writing five days prior to the start of work. The letter shall state the name, address, and telephone number of the project supervisor who will be responsible for insuring onsite compliance with this Order. (All erosion/sedimentation control devices shall be installed BEFORE the start of work.)
- ☒ 4. Prior to any activity at the site, a snow fence, siltation fence or a line of straw bales shall be staked as shown on the plan of record. After the fence or straw bales are installed, notice shall be given to the Nantucket Conservation Commission. **No work shall begin on the site for 72 hours after said notice is given; so as to allow Commission members time to inspect all siltation devices.** The snow fence, siltation fence, or straw bale line erected to prevent siltation, erosion, filling of the wetland, and trap windblown debris during construction, will also serve as a limit of the activity for work crews. It shall remain in good repair during all phases of construction, and it shall not be removed until all soils are stabilized and revegetated or until permission to remove it is given by the Commission.
- ☒ 5. An as-built plan, signed and stamped by a registered professional engineer or land surveyor in the Commonwealth of Massachusetts, and having the same scale as the final approved plans, shall be submitted to the Commission at the same time as a written request for a Certificate of Compliance, and shall specify how, if at all, the completed plan differs from the final approved plan. The as-built plan shall include, but not be limited to, the following: any/culvert inverts for inflow and outfalls; pipe slope, size, and composition; location of any other drainage structures and their composition; limits of fill or alteration; location of all structures and pavement within 100 feet of the wetland; the edge of the wetland; the grade contours within 100 feet of the wetland.
- ☒ 6. Members, employees, and agents of the Commission shall have the right to enter and inspect the premises to evaluate compliance with the conditions and performance standards stated in this Order, the Massachusetts Wetlands Protection Act, and pertinent Massachusetts regulations (310CMR10:00 through 10:99). The Commission may require the submittal of any data deemed necessary by the Commission for that evaluation.
- ☒ 7. The applicant, owners, successors, or assignees shall be responsible for maintaining any on-site drainage structures and outfalls, assuring the lasting integrity of vegetative cover on the site, and monitoring of site activities so as to prevent erosion, siltation, sedimentation, chemical contamination, or other detrimental impact to any on-site or off-site resource area. It shall be the responsibility of the property owner of record to ensure compliance with the maintenance conditions required by this Order.



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B1. Additional Conditions (cont.)

- ☒ 8. This document shall be included in all construction contracts and subcontracts dealing with the work proposed and shall supersede other contract requirements.
- ☒ 9. A complete copy of this permit, including its drawings, Special Conditions, and any Amendments shall be available at the work site whenever work is being performed. The permittee shall provide a copy of this permit to all contractors, subcontractors, and other personnel performing work relating to this project in order to assure full knowledge and compliance with the permit's terms and conditions.
- ☒ 10. Natural vegetation between the wetland edge and upland edge of the Undisturbed Buffer shall be left intact. Within 48 hours of project completion, weather permitting, all disturbed areas shall be replanted as previously approved by the Commission. There shall be at least a 25-foot undisturbed buffer on the upland side of the wetland boundary, unless otherwise specified by this Order. This shall be an ongoing Condition that shall survive the expiration of this permit and shall be so noted on the Certificate of Compliance.
- ☒ 11. To minimize adverse effects on wildlife and water resources, the use of any pesticide or fertilizer requires explicit permission to be granted by the Commission. This shall be an ongoing Condition that shall survive the expiration of this permit, and shall be so noted on the Certificate of Compliance.
- ☒ 12. In all cases, no part of any structure, including decks, stairs, cantilevers, etc., may be closer than 50 feet from the approved wetland boundary unless otherwise specified in this Order. This shall be an ongoing Condition that shall survive the expiration of this permit and shall be so noted on the Certificate of Compliance.
- ☒ 13. Any refuse material found on the site shall be disposed of at an approved landfill and in no case may these materials be buried or disposed of in or near a wetland.
- ☒ 14. This Order of Conditions shall apply to any successor in interest or successor in control of the property.
- ☒ 15. No underground petroleum product storage tanks are allowed within 100 feet of any wetland or within any velocity (V) flood zone as indicated on the most recent FEMA floodplain maps.
- ☒ 16. No work under this Order of Conditions may proceed until the applicant has filed all necessary permits and applications with:
Board of Health, ZBA, HDC, Building Inspector, Army Corps of Engineers, DEP, Waterways, MNH, etc.
- ☒ 17. All construction and alterations must comply with the above referenced plans and the Conditions of this Order. Any changes intended to be made in the plans or in the work shall require the applicant to file a new Notice of Intent, or to inquire of the Commission in writing whether the change is substantial enough to require a new filing. No change in plan or work under this filing is permissible without a new Notice of Intent, or permission from the Commission.

FINDINGS and ADDITIONAL CONDITIONS
Massachusetts Wetlands Protection Act (MGL Chapter 131, Section 40)
Town of Nantucket Wetlands Bylaw (Chapter 136)

Address: 87-105 Baxter Road
Assessor's Map and Parcel: 48-8, 14, 14.1, 15, 17, 18, 19, 21, 22, 35
Property Owner: Town of Nantucket
Applicant: Siasconset Beach Preservation Fund (SBPF)
DEP File Number: SE 48-2824
Filing Date: 8/14/2015
Date Hearing Closed: 9/10/2015
Date Orders Issued: 9/30/2015
Plan of Record Information: Baxter Road Stabilization Project (2 Sheets), dated 3/12/2013, Final revision of 9/9/2015, stamped by Joseph R. Marrone, P.E.

Permit Overview:

This order is issued and permits the Project, being the ongoing maintenance of an existing three tiers of sand-filled geotubes along 87-105 Baxter Road, installation of a fourth tier of geotubes along lots 91, 93, 97 and 99, installation of smaller geotextile tubes as returns on the ends of the structure, planting of vegetation and ongoing maintenance, sand mitigation and nourishment on a Coastal Bank, Coastal Beach, Land Under the Ocean and Land Subject to Coastal Storm Flowage. A drainage system is permitted under this Order which is within the Coastal Bank its associated buffer zone and the buffer zone to a Bordering Vegetated Wetland.

Project Proposal:

The Order of Conditions is based on information submitted in the Notice of Intent dated 8/14/2015, its attachments, follow-up information submitted on behalf of SBPF to the Conservation Commission, and the plan of record. The Commission also considered and relied upon other pertinent supplemental information including and not limited to:

- Original Filing Package dated 8/14/2015
- Plan of Record and previous revisions
- Property owner assents
- Construction Dates of Baxter Road Properties by SBPF
- Sconset Beach Velocity Dissipator, dated 8/27 by Haley & Aldrich
- Geotube Return (2 sheets), dated 8/17/15 and stamped by Joseph F. Marrone, P.E.
- Photos submitted by Ian Golding 9/2/2015
- Letter from Nantucket Land Council, dated 9/2/2015
- Submission from Sharon VanLieu dated 9/3/2015
- Letter from Epsilon Associates, Inc. dated 9/8/2015
- Letter from COWI, dated 9/9/2015
- Letter from Dr. Robert Young, dated 9/9/2015
- Letter from Nantucket Land Council, dated 9/10/2015
- Letter from Nantucket Coastal Conservancy, dated 9/10/2015

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- Letter from Quidnet Squam Association dated 9/10/2015
- The record from DEP File Number SE48-2610 as shown below:
 - Original Filing Package by the Town of Nantucket (TON) and the Siasconset Beach Preservation Fund (SBPF), dated 10/23/2013
 - 2014-5-14 NLC Submission
 - 2014-5-14 Van Lieu Submission
 - 2014-5-14 Roggeveen Quidnet Squam Submission
 - 2014-5-14 Atherton Submission
 - 2014_5_9 SBPF Submission
 - 2014_5_9 SBPF Submission Regulatory Compliance
 - 2014-5-2 Trillos Submission
 - 2014_4_30 Van Lieu Submission
 - Sconset Presentation 2014-4-30
 - 2014_4_28 Sconset Bluff Updated Returns Plans
 - 2014_4_25 SBPF Submission
 - 2014_4_2 Ian Golding Submission
 - Applied Coastal 2013_11_8
 - Baxter Road Homeowners 2013_11_12
 - Case Study 2013_10_30
 - Cottage and Castle 2014_2_17
 - DPW Submission 2013_11_13
 - Enforcement Order 2014_2_5
 - FishTec Inc 2014_2_12
 - Flint Industries 2014_2_18
 - Jim OConnell Letter 2013_11_4
 - Kopelman and Paige 2013_11_13
 - Mary Wawro Submission 2013_11_6
 - Memo from Ocean and Coastal Consulting 2013_12_6
 - Milone and MacBroom 2013_10_25 Attachments
 - Milone and MacBroom 2013_10_25 Narrative and Plans
 - Milone and MacBroom 2013_11_1
 - Milone and MacBroom 2013_11_05
 - Milone and MacBroom 2013_11_19
 - Milone and MacBroom 2013_12_03
 - Milone and MacBroom 2013_12_03_Nantucket_PlanSet
 - Milone and MacBroom Letter 2013_11_12
 - Milone and MacBroom Plans 2013_10_30
 - Nantucket Land Council and Applied Coastal 2013_11_1
 - Nantucket Land Council Letter 2014_2_18
 - NLC 2013_11_01
 - NLC Submission 2014_3_28
 - Notice of Intent Application
 - Posner Letter 2013_11_18

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- Quidnet Squam 2013_11_19
- Roggeveen Submission 2013_10_30
- SBPF- ASBUILT-JAN-30-2014
- SBPF Letter 2014_2_12
- SBPF Letter 2014_3_28
- SBPF Submission 2013_11_1
- SBPF Submission 2013_11_6
- SBPF Submittal 2014_3_19
- Submission from D.Anne Atherton
- USACE 2014_2_4

Additional Findings:

1. The Commission finds that the areas subject to regulation are coastal beach, coastal bank, land subject to coastal storm flowage, land under the ocean, bordering vegetated wetland and their associated buffer zones.
2. The Commission finds that the property is not located within Priority Habitat of Rare Species or Estimated Habitat of Rare Wildlife as defined by the Massachusetts Natural Heritage and Endangered Species Program.
3. The Commission finds that coastal beach is determined to be significant to storm damage prevention, flood control and protection of wildlife habitat as defined by the Commonwealth of Massachusetts Wetlands Protection Act (MGL Chapter 131§40) as those definitions are made applicable to this Order of Conditions by section 1.02 of the Nantucket Wetlands Protection Regulations.
4. The Commission finds that coastal bank is determined to be significant to storm damage prevention, and flood control because it supplies sediment to the coastal beach as defined by the Commonwealth of Massachusetts Wetlands Protection Act (MGL Chapter 131§40) as those definitions are made applicable to this Order of Conditions by section 1.02 of the Nantucket Wetlands Protection Regulations.
5. The Commission finds that coastal bank is determined to be significant to storm damage prevention, and flood control because it is a vertical buffer to storm waters as defined by the Commonwealth of Massachusetts Wetlands Protection Act (MGL Chapter 131§40) as those definitions are made applicable to this Order of Conditions by section 1.02 of the Nantucket Wetlands Protection Regulations.
6. The Commission finds that the coastal beach is significant to the protection of the following interests: flood control, erosion control, storm damage prevention, fisheries, shellfish, wildlife, recreation and wetland scenic views as defined by the Town of Nantucket Wetlands Protection Bylaw (Chapter 136).
7. The Commission finds that the coastal bank is significant to the protection of the following interests: flood control, erosion control, storm damage prevention, wildlife, and wetland scenic views as defined by the Town of Nantucket Wetlands Protection Bylaw (Chapter 136).
8. The Commission finds that the land subject to coastal storm flowage is significant to the protection of the following interests: flood control, erosion control, storm damage prevention, wildlife, and water quality as defined by the Town of Nantucket Wetlands Protection Bylaw (Chapter 136).

9. The Commission recognizes this particular coastal beach and coastal bank exist in an integrated system of resource areas in a highly dynamic coastal environment and that that coastal bank is comprised of mixed glacial till material with locally perched groundwater.
10. The Commission recognizes that the coastal bank is subject to significant erosion due to wave action, overland storm water erosion and groundwater flow/discharge.
11. The Commission finds that the presence of beach and benthic invertebrates and micro-organisms within the beach and benthic environment is essential to the function of the beach and benthic ecosystem and the protection of wildlife.
12. The Commission finds that the Project is proposed to protect pre-1978 buildings and essential public infrastructure providing access and utilities for such.
13. The Commission finds that the Project is water dependent because direct access to the coastal bank and coastal beach is required to achieve the purpose of the Project, which is to stabilize the coastal bank, provide erosion control, storm damage prevention and flood control, which cannot be done outside of the coastal bank and coastal beach resource areas.
14. The Commission finds that these dwellings and infrastructure are in danger, due to erosion of the coastal bank.
15. The Commission finds that the existing portion of this Project was undertaken as an emergency project to protect public health and safety, with the condition that the Applicant return to the Commission to seek an Order of Conditions after the emergency was abated.
16. Since a three-tier geotextile structure has already been in place for two winter storm seasons and MassDEP has found that it can be maintained so as to minimize adverse effects and to protect jurisdictional resource areas, the Commission finds that the Project should continue to be maintained and that regular monitoring and reporting will be necessary to determine the effectiveness of the project for this distinct project area.
17. Based on the following:
 - a. The record presented,
 - b. The proposed monitoring and mitigation plan,
 - c. Certain findings by MassDEP in its Superseding Order of Conditions which is part of the record herein,
 - d. The desire to impose performance standards and monitoring and mitigation protocols not otherwise available in an emergency order,
 - e. The approval of the Project by MassDEP on a temporary basis, with significant mitigation and monitoring protocols, and with established failure criteria,
 - f. That the continued control of the erosion in this location is currently necessary to abate the certified emergency, and that in this particular location, continued maintenance of this Project is warranted under the circumstances, as conditioned.
18. Therefore, the Commission finds that the Project can be expanded with returns and maintained, as provided, on a temporary basis, with conditions and controls specified in the conditions section below. In making the above finding, the

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Commission relies on the representation of the Applicant that, subject to receiving an appropriate Order of Conditions which is not appealed, the Applicant will not seek to expand the length or time of the Project approval, until after January 1, 2018, and that the construction of a longer length or longer term project shall not start until September 1, 2018, which will allow the Commission the opportunity to observe and assess the effectiveness and impacts of the Project for five storm seasons. The Commission will make its best efforts to review and decide such an application within 120 days. It is understood that the Applicant may apply for localized alterations to the Project as may be appropriate based on site conditions, and may apply for any alteration or expansion necessary to address any emergencies.

In addition to the General Conditions contained elsewhere in this document, the Commission includes the following Special Conditions pursuant to the Town of Nantucket Wetlands Protection Bylaw, Chapter 136:

19. This order permits the continued maintenance of the existing 852 ± foot long 3-tier geotube structure along 87-105 Baxter Road and the installation of a fourth tier of geotubes across the existing system but limited to the area fronting along 91, 93, 97 and 99 Baxter Road. The applicant is also permitted to construct returns as described in the December 19, 2014 MassDEP Superseding Order of Conditions and as further modified in the plan of record dated 9/9/2015 and may also plant vegetation above the geotubes and returns, including the filling of gullies and rivulets as approved by the Conservation Commission on February 18, 2015. This Order approves the Geotubes as a temporary installation for a period of three years, with the option for the proponents to request an extension of the term for a maximum of three additional years in accordance with the provisions set out herein.
20. Notice of work commencement shall be given to the Nantucket Conservation Commission ("NCC" or the "Commission") and the Massachusetts Department of Environmental Protection ("Department") at least 48 hours prior to the commencement of work.
21. Prior to installation of the fourth tier of Geotubes on lots 91, 93, 97, 99 and returns, SBPF shall ascertain the width of the beach seaward of the existing Geotubes to determine whether there is sufficient beach width landward of mean high water (MHW) to conduct activities associated with the installation of the fourth tier and returns in accordance with the proposed construction methodology. In the event the beach is not sufficiently wide to allow Geotube installation in accordance with the proposed construction methodology, SBPF shall submit an alternative construction methodology for the Nantucket Conservation Commission and Department's review and approval. SBPF shall provide copies of such materials submitted to the Department to NCC.
22. Prior to installation of the fourth tier of Geotubes on lots 91, 93, 97, 99 and returns, SBPF shall mark the MHW line with surveyed stakes, obtain Global Positioning System (GPS) coordinates along the MHW line and shall maintain the

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- stakes throughout the duration of construction. GPS coordinates shall be submitted to the Department and the NCC within 2 weeks of collection.
23. Any sand within the Geotubes or sand placed on top of the fourth tier shall not be considered to be part of the mitigation amount required yearly by the project.
 24. The staked position of the MHW line shall serve as a limit of work throughout the duration of construction. No work is allowed seaward of the MHW line under this OOC.
 25. All sand used for mitigation or to fill and cover the Geotubes shall be imported from an off-site source and shall be compatible with the existing bank and beach sediments.
 26. As proposed, the sand-filled Geotube returns, fourth tier of geotubes and returns on the fourth tier of geotubes shall be installed in a manner to form closure between the existing Geotubes and the adjacent bluff without excavation into the coastal bank. All beach sand excavated to install the returns shall remain on the beach and shall be used to restore the beach following construction.
 27. The ongoing beach monitoring/survey program currently conducted by the Woods Hole Group shall continue. The monitoring program shall be conducted on a quarterly basis for the first 3 years in order to timely identify beach impacts that may be attributable to the Geotubes and to assess whether the mitigation program is adequate. Beach profiles shall be taken on a quarterly basis along the 44 proposed profile lines. Beach profiles shall be taken from the top of the coastal bank, coastal dune or Geotube seaward to the -5 foot MLW contour. Beach profile data and analysis shall be submitted to the Department and the NCC within 30 days of completion of the quarterly survey. Following 3 years of quarterly surveys, SBPF may request to amend the Order of Conditions to alter the monitoring program.
 28. As proposed, offshore (bathymetric) profiles shall be taken each spring and fall. GPS locations shall be taken along each transect with the coordinates provided. These transects shall be reused for each survey to cover the same areas. Offshore profiles shall be taken out to the -25 foot to -35 foot MLW92 contour or 2,000 to 3,000 feet offshore, whichever is greater. The bathymetric survey transects shall overlap the beach profiles (no gaps) and the tide gage used during the survey shall be surveyed into the same datum as the beach profiles. Bathymetry profile data and analysis shall be submitted to the Department and NCC within 30 days of completion of the survey. Photographs and/or video shall be taken along the transects within the project area and the area directly adjacent to the project area. The underwater video shall be able to characterize the bottom sediments, species present and relative abundance including the calculating of the percent cobble where appropriate.
 29. An annual assessment report summarizing the beach and bathymetric profile monitoring program, including habitat and substrate sampling, and the invertebrate sampling from the approved protocol shall be submitted to the Department and the NCC each year. This report shall, at a minimum, provide an analysis of beach changes including volumetric changes between surveyed transects, assess location of the top of coastal bank and estimate bank retreat over the previous 12 months and calculate bank volume loss in the project area and 300 feet to the north and south. In addition, the report shall recommend any necessary
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- changes to the beach nourishment program for the Conservation Commission's review and approval. The report will also evaluate shoreline change within the area covered by the quarterly transects.
30. This annual report shall include presentation to the Commission at a regularly scheduled public meeting of the Commission to discuss the data included and what conditions and impacts are being seen as part of the project.
 31. Post-Storm monitoring reports shall be submitted following all significant storms. A storm will be considered "significant" if there are sustained winds over 40 mph over at least a 6 hour period according to NOAA's National Climate Data Center, Nantucket Memorial Airport station. The post-storm monitoring report shall include, at a minimum, photo-documentation of the condition of the Geotubes and nourishment sand within the project area, estimate of the volume of sand lost from the sand template, estimate of the beach level in front of the Geotubes to determine if replenishment is needed, estimate of volume of sand (if necessary) and schedule for delivery, identification of the location of any exposed geotextile or of any repair required to the geotextile, and visual observation of the ends of the Geotubes to determine if flanking is occurring. Such reports shall be submitted to the Department and the NCC as soon as possible following all significant storms but no later than 7 days from the end of the storm.
 32. Sand mitigation shall be at a rate of 22 cubic yards per linear foot (cy/lf) per year in accordance with the following schedule:
 - a. Provide the required sand cover during and/or immediately following construction of the fourth tier and returns. Sand cover volume shall be in accordance with the following schedule.
 - b. Annually in April: Provide additional sand and/or adjust the existing template to obtain a minimum two foot cover over the Geotubes to protect them from UV degradation. The volume of any sand placed in April shall be recorded and counted towards the annual 22 cy/lf requirement.
 - c. Annually in September-November: Place an additional volume of sand, to ensure a substantial portion of the sand template volume (10-15 cy/lf) is available at the onset of the winter storm season. Throughout the winter, place additional sand on an as-needed basis, in accordance with the replenishment trigger in the Milone & MacBroom November 12, 2013 letter (i.e., if half the vertical height of the lowest Geotube is exposed, place a minimum of 2 cy/lf). If the balance of the 22 cy/lf volume is not placed in its entirety before March 1, the balance of the sand will be placed by March 31.
 - d. Delivery tickets from sand supplier shall be provided annually to the Department and the NCC to document the total volume of sand provided on a yearly basis.
 33. If there is not adequate space to provide the entire mitigation volume within the project area footprint, then any remaining sand shall be placed in a berm at the toe of the coastal bank and landward of MHW within 300 feet of the ends of the Geotubes upon notice to the Commission demonstrating that placement within the project area is not possible. Any additional sand placed outside of the project area shall be equally distributed to the areas north and south of the project area.

34. Failure of SBPF to conduct the actions set out in subsections (a) to (f) herein shall constitute a project failure ("failure criteria") if not performed within the stipulated timeframes or within such other reasonable periods of time as determined by the Commission in the event of a delay in performance outside the control of SBPF, or if there are unmitigated adverse impacts from the project. The "failure criteria" include:

- a. Failure to provide the sand mitigation as required herein.
- b. Failure to conduct the shoreline monitoring and post-storm monitoring as required herein.
- c. Failure to repair and/or replace damaged geotextile tubes in a timely manner. If repair or replacement cannot be accomplished within 30 days from the date of the damage, SBPF shall notify the Department and the NCC before 30 days have elapsed and provide a repair schedule for Department review and approval.
- d. Excessive loss in updrift or downdrift beach cross section that can be attributed to the project. If the quarterly monitoring program identifies excessive loss to the adjacent shoreline (compared to historical data) that may be attributable to the project, then SBPF shall provide notice to the Department and the NCC within 30 days of the completion of the quarterly survey. Upon such notice the procedures set forth in the SOC for such circumstances shall apply.
- e. Failure to maintain adequate beach width in front of the Bank. If the beach in the project area erodes so that the position of MHW migrates landward to the seaward edge of the second tier of geotextile tubes for any two consecutive quarterly surveys, then within 30 days of completion of the second quarterly survey SBPF shall provide notice to the Department and the NCC.
- f. Failure to maintain a walkable beach in front of the Geotubes. It shall be a failure if the beach on the seaward side of the coastal bank is not passable by foot and has narrowed by a greater percentage in comparison to the widths of nearby and adjacent beaches up-drift and down-drift, including those beaches in front of other forms of erosion control, for the majority of two consecutive quarters, considering storms, tides, and similar conditions. It is understood that the portion of the beach in front of the geotubes is by definition narrower than nearby unprotected beaches because the geotubes and the sand template covers the back of the beach. In calculating whether the beach has narrowed disproportionately the distance will be measured from Mean High Water to the natural toe of the bluff which in some locations is buried behind the erosion protection system. Upon such a failure SBPF, shall provide notice to the Department and the NCC within 30 days.
- g. Failure to maintain all required insurance, permits and licenses.
- h. Failure to meet reporting requirements or good faith effort to provide required reporting.

35. Should any of the failure criteria be met, the Applicant shall schedule an appearance before the Conservation Commission at its next available hearing.

The Commission shall review the failure and determine how the Applicant shall act to address it.

36. In the event removal of the Geotubes is ordered, then the geotextile fabric shall be cut, removed and properly disposed of. Following removal of the geotextile fabric, sand from the Geotubes shall be spread along the beach landward of MHW. SBPF and the Town shall maintain the escrow fund in place as of the date of this OOC to ensure the availability of funds to pay for the removal of the Geotubes. Lack of adequate funds in the escrow account shall not negate SBPF's requirement for Geotube removal.
 37. SBPF shall be responsible for the retrieval and proper disposal of all geotextile products associated with this project in the event wave action and erosion destroys or otherwise causes damage to the Geotube system.
 38. This OOC approves the operation and connection of the previously installed coastal bank drainage system on 91 Baxter Road in accordance with the plan dated 9/9/2015.
 39. As proposed, exposed areas on the face of the coastal bank, other than the upper 5-7 feet, may be stabilized using biodegradable erosion control blankets planted with beach grass and/or other indigenous coastal vegetation. The erosion control blankets and plantings shall be installed with hand tools with workers repelling down the bank face.
 40. All construction refuse shall be removed from the site and disposed of in compliance with all local, State, and Federal laws and regulations.
 41. Approval for the project is for three years, with the option to request a three-year extension upon expiration of the initial three-year term. The applicant shall not apply for a long term or long length expansion of the Project prior to January 1, 2018 and shall not begin construction of such until after September 1, 2018. The Applicant may apply for localized alterations to the Project as may be appropriate based on site conditions, and may apply for any alteration or expansion necessary to address an emergency or imminent danger.
 42. All access for construction or maintenance vehicles along the beach to the project area shall be from the Hoick's Hollow access to the South. That access shall be blocked off and maintained at all times to prevent other vehicles from entering the beach area. The applicant shall get a written sign off from the Natural Resources Coordinator on a bi-weekly basis from April 1st to September 15th to use vehicles on the beach. The sign-off will serve to confirm the presence or absence of any protected species within the project area or route of travel to and from the project area. That gate shall be repaired within 48 hours of any damage.
 43. The use of small vehicles, such as a beach buggy, to inspect or repair the Geotubes and sand cover is permitted, provided the Natural Resources Coordinator sign-off described herein is obtained.
 44. The Town of Nantucket as an assenting property owner and SBPF as the applicant shall provide the Commission with updates every six months on the status of the efforts to relocate alternative access and public utilities' infrastructure at the northern end of Baxter Road.
 45. Upon completion of the initial construction of the project as permitted, a partial Certificate of Compliance shall be requested. A stamped as-built plan and a statement from a Professional Engineer or a Professional Land Surveyor
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registered in the Commonwealth of Massachusetts certifying compliance with the plans and conditions of this Order shall accompany the request for a partial Certificate of Compliance.

46. Upon relocation of Baxter Road the applicant shall appear before the Commission to discuss if the Geotubes in front of land not containing pre-1978 structures shall be removed and returns installed, in keeping with those shown on the plan of record, on the remaining Geotube structure. This shall take place within 90 days of the relocation of Baxter Road.
47. The returns constructed on the fourth tier of Geotubes shall be contained on the parcels that are allowed to contain the fourth tier.
48. Should the quarterly surveys show an accelerated rate of coastal retreat within the entire survey area SBPF shall be required to demonstrate that those impacts are not attributed to this project.
49. The applicant shall be required to provide a copy of the required insurances by the License Agreement dated December 13, 2013 between the Town of Nantucket, SBPF, and private property owners.
50. Groundwater levels within the Bordering Vegetated Wetlands adjacent to the drainage system and Baxter Road shall be taken at the beginning, middle and end of the growing season to determine if the drainage system is having an adverse impact to the vegetated wetlands. If there is a change in groundwater deemed significant by the Commission they may call for the discontinuation or removal of the system.
51. A yearly report on the performance of the drainage system is to provide to the Commission. The report shall include the area serviced by the drainage system, and the maximum amount of water that entered the system during a storm event.
52. A list of all sand sources currently being used shall be provided to the Commission. Should an additional source be added or change a sieve analysis demonstrating compatible material shall be provided to the Commission for review and approval prior to the installation of any material.
53. The ability of SBPF to conduct the actions set out in subsections (a) to (f) herein shall constitute a project success ("success criteria") if performed within the stipulated timeframes or within such other reasonable periods of time as determined by the Commission in the event of a delay in performance outside the control of SBPF. The "success criteria" include:
 - a. The ability to provide the sand mitigation as required herein.
 - b. Completion, presentation and review of all the shoreline monitoring and post-storm monitoring as required herein.
 - c. Successful repair and/or replace of damaged geotextile tubes in a timely manner.
 - d. No excessive loss in updrift or downdrift beach cross section that can be attributed to the project. Including taking proper action as directed by the Commission to address any impacts show be the reporting requirements herein
 - e. Maintenance of adequate beach width in front of the Bank as defined through the reporting requirements and reviewed by the Commission.
 - f. Maintenance of a walk able beach in front of the Geotubes at high tide. It is understood that the portion of the beach in front of the geotubes is by

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definition narrower than nearby unprotected beaches because the geotubes and the sand template covers the back of the beach.

- g. No excessive loss of the area subject to protection by the project.
- 54. A copy of the license as approved by the Board of Selectmen shall be provided to the Commission. Prior to any extension or revision of this project a copy of the valid license to allow the project and the duration of the license to be long enough to cover the project as proposed shall be provided to the Commission.
- 55. All surveyed elevations shall be shown in the NAVD 88 datum plane to match the datum of the current FEMA flood mapping, or a conversion factor shall be provided from the published data to the NAVD 88 datum plane.
- 56. A summer sample of the invertebrate life within the beach from three locations in the project area, three locations within the area between the project and the Hoicks Hollow access, three samples to be taken to the north of Hoick's Hollow, and three samples to be taken south of Codfish Park and compared to determine impacts on the invertebrate community of the Coastal Beach. The samples shall be taken along the existing surveyed transects and locations of the samples shall be provided to the Commission. Prior to the taking of the samples a protocol of the sampling shall be provided to the Commission for review and approval.
- 57. All raw survey data shall be made available to the Commission and public.
- 58. The Commission will require an independent peer review of the data and reporting. Any cost incurred by the peer review shall be paid by the applicant. All reviewers shall be agreed upon by the Commission and the applicant.
- 59. A daily work log documenting all project activity shall be filed with the Commission as part of each quarterly report.

WAIVERS UNDER THE NANTUCKET WETLANDS BYLAW/REGULATIONS

Waivers are required to Section 2.01 (B)(7), 2.02 (B)(2), 2.05(B)(1) that no new bulkheads, coastal revetments, groins or other coastal engineering structures shall be permitted to protect structures constructed or substantially improved, after 8/1978 except for public infrastructures. Bulkheads and groins maybe rebuilt only if the Commission determines that there is no environmentally better way to control an erosion problem, including in appropriate cases the moving of then threatened buildings and/or public infrastructure. Section 2.01 (B)(8) that water dependent projects shall be designed and performed so as to cause no adverse effects on wildlife, erosion control, marine fisheries, shellfish beds, storm damage prevention, flood control, recreation and aquatic vegetation. Section 2.05(B)(3) that all projects shall be restricted to activity as determined by the Conservation Commission to have no adverse effect on bank height, bank stability, wildlife habitat, vegetation, wetland scenic view or the use of a bank as a sediment source. Section 2.10(B)(1) that the work shall not reduce the ability of the land to absorb and contain flood waters, or to buffer inland areas from flooding and wave damage. The Commission finds that the current project as proposed and partially constructed is designed and conditioned to not have an adverse impact on the interests protected by these regulations. The regular monitoring, mitigation and reporting shall provide the Commission a way to carefully observe the function and impacts that the project is having and to make on-going decisions as to the future actions taken in regards to this project. The Commission also finds that given the current state of the existing structure, which was designed to abate the declared emergency, and to properly monitor and mitigate the existing structure that there are no reasonable alternatives that allow the project to proceed in compliance with the regulations. Therefore the Commission grants a waiver under Section 1.03(F)(3)(a) of the Nantucket Wetland Protection Regulations.

Property Owners and Title Information
DEP File Number SE48-2824
87-105 Baxter Road

| Map | Parcel | Street Address | Owner Name | Title Reference |
|-----|--------|-----------------|---|---------------------|
| 48 | 8 | Sconset Bluff | Town of Nantucket | C-19103 |
| 49 | 8 | 87 Baxter Road | Samuel Furrow and Ann Furrow | Book 839, Page 295 |
| 48 | 22 | 91 Baxter Road | Daniel L. Korengold, Trustee | Book 1352, Page 45 |
| 48 | 21 | 93 Baxter Road | Steven T. Freeman and Erin P. Freeman | Book 1069, Page 97 |
| 48 | 19 | 97 Baxter Road | Lawrence C. McQuade and Margaret O. McQuade | C-17087 |
| 48 | 18 | 99 Baxter Road | Ann B. Furrow | C-20681 |
| 48 | 17 | 101 Baxter Road | 101 Baxter Road, LLC | Book 1427, Page 341 |
| 48 | 15 | 105 Baxter Road | Marilee Brill Matteson, Trustee | C-25689 |



PROVIDED DISCRETE
EROSION CONTROL FABRIC
ON AUTO RETAIN WITH
AMERICAN HIFLEX CLOS.

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| NO. | DESCRIPTION | DATE | BY | REVISION |
|-----|-------------------------------|---------|-----|----------|
| 1 | ISSUED FOR PRELIMINARY REVIEW | 1/14/14 | AKS | AKS |
| 2 | REVISIONS MADE | 1/14/14 | AKS | AKS |
| 3 | REVISIONS MADE | 1/14/14 | AKS | AKS |
| 4 | REVISIONS MADE | 1/14/14 | AKS | AKS |
| 5 | REVISIONS MADE | 1/14/14 | AKS | AKS |
| 6 | REVISIONS MADE | 1/14/14 | AKS | AKS |
| 7 | REVISIONS MADE | 1/14/14 | AKS | AKS |

Ocean and Coastal Consultants

OCC

Ocean and Coastal Consultants Inc.
4101 Airway Road, Suite 100, Virginia Beach, VA 23462
(757) 490-1110 Fax: (757) 490-1111
Web: www.oceanandcoastal.com

**SCONSET BEACH
PRESERVATION FUND**

10 Seaplane Road, Newmarket, VA 22054

BAXTER ROAD STABILIZATION PROJECT

10 Seaplane Road, Newmarket, VA 22054

PLAN VIEW OF SLOPE STABILIZATION

**SCONSET BEACH
PRESERVATION FUND**

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**SCONSET BEACH
PRES**

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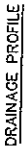
Ocean and Coastal Consultants  COWI

Ocean and Coastal Consultants, Inc.
410 Harbor View Drive S. Portsmouth, VA 23706
Phone: 757/398-7000 Fax: 757/398-7001
Web site: www.oceanandcoast.com

| | | | |
|--|--|-----------------------------------|-----------------------------------|
| | LOCALITY OR AREA | BAXTER ROAD STABILIZATION PROJECT | DRAWING NO. 210019.1-3A-01 |
| | COUNTY OF CALIF. COUNTY DISTRICT SECTION | | |
| | 7 | | |

growths" have, thus, an overriding aim with the resin encapsulated to provide an effective layer of environmental safety.

Despite these claims, it may be that the resin is not as good as it is made out to be. It may be that the resin is not as strong as it is made out to be. It may be that the resin is not as durable as it is made out to be. It may be that the resin is not as safe as it is made out to be. It may be that the resin is not as effective as it is made out to be. It may be that the resin is not as good as it is made out to be. It may be that the resin is not as strong as it is made out to be. It may be that the resin is not as durable as it is made out to be. It may be that the resin is not as safe as it is made out to be. It may be that the resin is not as effective as it is made out to be.



GENERAL NOTES

1. ALL ELEVATIONS ARE BASED ON MEAN LOW WATER DATUM (M.L.W.-0.0').
2. DRAINAGE SYSTEM DESIGN BY WALCY & AUBRICH, INC. AND BLACKWELL AND ASSOCIATES.

GRAPHIC SCALES

CHECK GRAPHED SCALES BEFORE USING



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FOR PERMITTING PURPOSES ONLY

DRAINAGE PROFILE

Ocean and Coastal Consultants

 Ocean and Coastal Consultants, Inc.
 470 School Street, 2nd Fl., Northford, MA 02856
 Phone (508) 335-1150 Fax (781) 654-4436
 Web site: www.ocean-consultants.com

SCONSET BEACH
PRESERVATION FUND
8 Seapone Road, Nantucket, MA 02554

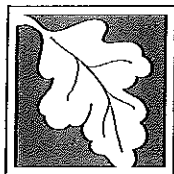
8 Sorapone Road, Nantucket, MA 02554

APR 27 1964
DRAWN BY CANA
CHECKED BY AZD
SG MEMPHIS JONIA

BAXTER ROAD STABILIZATION PROJECT

| | | | |
|------------------|------------------|-------------|----------------|
| DATE 11-19-02 | 1 | DRAWING NO. | 210019.1-3A-02 |
| AS NOTED | DATE 11/12/02 | | |

[illegible]



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:
SE48- 2824
MassDEP File #

eDEP Transaction #
Nantucket
City/Town

E. Signatures

This Order is valid for three years, unless otherwise specified as a special condition pursuant to General Conditions #4, from the date of issuance.

Please indicate the number of members who will sign this form.

This Order must be signed by a majority of the Conservation Commission.

09/30/2015

1. Date of Issuance

7
2. Number of Signers

The Order must be mailed by certified mail (return receipt requested) or hand delivered to the applicant. A copy also must be mailed or hand delivered at the same time to the appropriate Department of Environmental Protection Regional Office, if not filing electronically, and the property owner, if different from applicant.

Signatures:


Ernest Steinhauer

Joseph Topham

Ashley Erisman


Andrew Bennett

Ben Champoux

Ian Golding

David LaFleur

☒ by hand delivery on

09/30/2015

Date

☐ by certified mail, return receipt requested, on

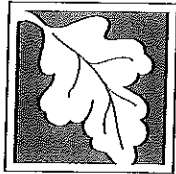
Date

F. Appeals

The applicant, the owner, any person aggrieved by this Order, any owner of land abutting the land subject to this Order, or any ten residents of the city or town in which such land is located, are hereby notified of their right to request the appropriate MassDEP Regional Office to issue a Superseding Order of Conditions. The request must be made by certified mail or hand delivery to the Department, with the appropriate filing fee and a completed Request of Departmental Action Fee Transmittal Form, as provided in 310 CMR 10.03(7) within ten business days from the date of issuance of this Order. A copy of the request shall at the same time be sent by certified mail or hand delivery to the Conservation Commission and to the applicant, if he/she is not the appellant.

Any appellants seeking to appeal the Department's Superseding Order associated with this appeal will be required to demonstrate prior participation in the review of this project. Previous participation in the permit proceeding means the submission of written information to the Conservation Commission prior to the close of the public hearing, requesting a Superseding Order, or providing written information to the Department prior to issuance of a Superseding Order.

The request shall state clearly and concisely the objections to the Order which is being appealed and how the Order does not contribute to the protection of the interests identified in the Massachusetts Wetlands Protection Act (M.G.L. c. 131, § 40), and is inconsistent with the wetlands regulations (310 CMR 10.00). To the extent that the Order is based on a municipal ordinance or bylaw, and not on the Massachusetts Wetlands Protection Act or regulations, the Department has no appellate jurisdiction.



Massachusetts Department of Environmental Protection
Bureau of Resource Protection - Wetlands

WPA Form 5 – Order of Conditions

Massachusetts Wetlands Protection Act M.G.L. c. 131, §40
And the Town of Nantucket Wetlands Bylaw Chapter 136

Provided by MassDEP:
SE48- 2824
MassDEP File #

eDEP Transaction #
Nantucket
City/Town

G. Recording Information

Prior to commencement of work, this Order of Conditions must be recorded in the Registry of Deeds or the Land Court for the district in which the land is located, within the chain of title of the affected property. In the case of recorded land, the Final Order shall also be noted in the Registry's Grantor Index under the name of the owner of the land subject to the Order. In the case of registered land, this Order shall also be noted on the Land Court Certificate of Title of the owner of the land subject to the Order of Conditions. The recording information on this page shall be submitted to the Conservation Commission listed below.

Conservation Commission

Detach on dotted line, have stamped by the Registry of Deeds and submit to the Conservation Commission.

To:

Conservation Commission

Please be advised that the Order of Conditions for the Project at:

Project Location

MassDEP File Number

Has been recorded at the Registry of Deeds of:

County

Book

Page

for:

Property Owner

and has been noted in the chain of title of the affected property in:

Book

Page

In accordance with the Order of Conditions issued on:

Date

If recorded land, the instrument number identifying this transaction is:

Instrument Number

If registered land, the document number identifying this transaction is:

Document Number

Signature of Applicant

